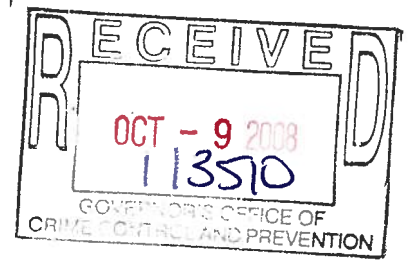


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October 9, 2008



Maryland Commission on Capital Punishment  
Governor's Office of Crime Control and Prevention  
300 E. Joppa Road, Suite 1105  
Baltimore, MD 21286

Dear Friends,

Enclosed are 2 documents.

One is the original of the letter from death row inmate Heath Burch, which was read to the commission at the September 22, 2008, hearing.

The other is a copy of testimony from PAX CHRISTI Baltimore. Copies of this testimony were left for the commission at the September 22 hearing, but it is feared that no copy actually reached the commission staff.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Fitzgerald". The signature is fluid and cursive, with the first and last names being more prominent.

Terrence Fitzgerald

## **STATEMENT ON DEATH PENALTY**

22 September 2008

FOR: STATEMENT/  
TESTIMONY IN SUPPORT OF ABOLITION OF DEATH PENALTY

FROM: PAX CHRISTI/BALTIMORE  
C. WILLIAM MICHAELS, ESQ., COORDINATOR

Pax Christi/Baltimore is the local Chapter of Pax Christi USA, the faith-based peace and justice advocacy organization. Our Chapter has been active in the Baltimore area for more than 20 years. Our basic approach to many social issues is from the perspective of Catholic Church modern social teaching.

The death penalty is among the issues we address. We have been working toward death penalty abolition in Maryland for our entire time of Chapter activity, in cooperation with various local or statewide anti death penalty coalitions. Our Chapter coordinates with the Baltimore Campaign to End the Death Penalty and with MD CASE.

As this Commission continues its examination of the death penalty in the State and all the aspects of that issue, we reiterate that from our perspective, the death penalty at its core is a moral concern. That does not mean, naturally, that those who favor the death penalty are devoid of moral approach. Nevertheless, we believe strongly that any comprehensive consideration of the moral component of the death penalty requires the conclusion that the death penalty is not morally supportable.

From that approach, the death penalty goes fundamentally beyond significant but generally political or statistical arguments. While it is true that capital punishment is often applied against low income individuals and in Maryland, and is quite clearly racially biased,

those arguments have their flaws. That is, such an approach to the death penalty solely, might be viewed to mean that the death penalty is acceptable if more high income people were executed or if executions were racially neutral, although is unlikely ever to be so.

Ultimately the argument over the death penalty, and its resolution as a response to violent crime, turns to matters of moral perspective. Here, Catholics have made their position very plain: the death penalty is not morally supportable. Pope John Paul II in his encyclical Evangelium Vitae (Gospel of Life) declared that even if there was grudging support for the death penalty in Church teaching since the 19th Century, its use now is so questionable, and alternatives to it are available which may not have existed before then, that the death penalty can no longer be morally justified.

Even before that papal encyclical, the American Bishops consistently have opposed the death penalty. The Church in Baltimore has been more outspoken. Our current Archbishop Edwin O'Brien recently presented a statement to this Commission opposing the death penalty.

In 2005, the American Bishops issued a Statement entitled "A Cultural of Life and the Penalty of Death." The Statement removed any doubt about the Church position on this question. The Statement called the death penalty "deeply flawed." It questioned the value of the death penalty as a deterrent, and called upon American citizens to re-examine justifications for its use.

While recognizing that those who commit harm must be accountable, the Statement noted that our society's response to crime and violence cannot merely be more violence. Our response must be measured as well, by contemplation and compassion. The Statement said:

Each of use is called to respect the life and dignity of every human being. Even when people deny the dignity of others, we must still recognize that their dignity is a gift from God and is not something that is earned or lost through their behavior. Respect for life applies to all, even the perpetrators of terrible acts. Punishment should be consistent

with the demands of justice and with respect for human dignity.

The Statement noted that since the Supreme Court reinstated the death penalty, more than 1,000 persons have been executed. It pointed out that among democratic and developed countries, the United States "stands almost alone in its regular use of the death penalty."

The Bishops' Statement commented on the often used Biblical phrase "life for life, eye for an eye, tooth for tooth" as a justification for the death penalty. (Ex 21:23-25, Lv 24:17, Dt 19:21). The Statement said:

A correct interpretation of these passages indicates, however, that the principal intent of such laws was to limit the retribution that could be exacted for an offense, not to require a minimum punishment. Furthermore, it is important to read individual passages in the context of Sacred Scripture as a whole. While the Old Testament includes some passages about taking the life of one who kills, the Old Testament and the teachings of Christ in the New Testament calls us to protect life, practice mercy, and reject vengeance. When Cain killed Abel, God did not end Cain's life. Instead, he sent Cain into exile, not only sparing his life but protecting it by putting 'a mark on Cain, lest anyone kill him at sight.' (Gn 4:15). Jesus refused to stone the woman accused of adultery (Jn 8:1-11), reminding us to be cautious in judging others and to have hope in the possibility of reform and redemption.

The American Bishops' Statement also noted the Catholic Catechism teaches that, "in a contemporary society where the state has non-lethal means to protect its citizens, the state should not use the death penalty." It noted that the Vatican has pleaded for clemency in death penalty cases including those in the United States, and had forgiven the man who tried to assassinate him.

The Statement continued:

Catholic teaching on the common good commits each of us to pursue the good of everyone and of society as a whole. When the state, in our names and with our taxes, ends a human life despite having non-lethal alternatives, it suggests that society can overcome violence with violence. The use of the death penalty ought to be abandoned not only for what it does to those who are executed, but what it does to all of society.

The pursuit of the common good is linked directly to the defense of human life. At a time when the sanctity of life is threatened in many ways, taking life is not really a solution but may instead effectively undermine respect for life. In many ways the death penalty is about us: the actions taken in our name, the values which guide our lives, and the dignity that we accord to human life. Public policies that treat some lives as unworthy of protection, or that are perceived as vengeful, fracture the moral conviction that human life is sacred.

The Statement declared that we "should focus our energies" on the grim realities of the death penalty (including 600 people on death row in California alone) "while we built on the growing momentum to bring them to an end." The Statement concluded that we are convinced that working together to end the use of the death penalty is an integral and important part of resisting a culture of death and building a true culture of life." It concluded, "We look forward to the day when our society chooses not to answer violence with violence."

That position echoes Pax Christi's own position on the death penalty--that it solves nothing, that it heals no wound, that it settles no problem, and that the violence in the deliberate taking by the State of a human life cannot ever be the true answer to the problems of violence. The cause of violence crime is not found in the death chambers of this or any other State, and cannot be resolved there.

It is noted in Scripture, "Vengeance is mine, sayeth the Lord." (Dt 32:35, Rm 12:19). So it is that vengeance and how vengeance is exacted, belongs to God alone. We cannot ever be the judges of human life to the extent that we can claim to ourselves the justification in taking it. And for that and so many other reasons, the death penalty does not enhance us, it does not distinguish us. Rather, the use of the death penalty, each time, diminishes us that much more.

God has said that He has set before us life and death, blessing and curse, and that we are to choose life so that we and our children shall live. (Dt 30:19). That declaration to us is to

bring us to a higher calling, to not turn to the motivations of vengeance or the explanations of deterrence, and to instead realize the justice is about greater things, and that the quality of justice is mercy.

If we want to do God's justice, we must be instruments of that justice beyond the walls of the courthouse. If we want to respond to despair, we must be instruments of hope. If we are to conquer hate, we must be instruments of love.

Beyond this, the death penalty's dangerous and violent history, especially in Europe in the Middle Ages through almost to the time when the death penalty was abolished in those nations, demonstrates the fact that more than simply a means of exacting vengeance, the death penalty was a method of state control. The wide variety of incredibly revolting and excruciating techniques for imposing the death penalty, often performed as part of public spectacle, stamps it unequivocally as a method of inducing fear into the public and maintaining state power.

That historical reality is even more true when considering the wide range of offenses, in the course of history, for which the death penalty could be imposed: blasphemy, idolatry, adultery or other prohibited sexual activity, witchcraft, various offenses against the ruling authority of the state, and so on. (According to legend, in ancient Egypt, it was a capital offense to kill a cat.) Even now, with the death penalty in modern America restricted to certain crimes, mostly homicide crimes, the death penalty is not precisely a form of response to murder, for not every murder is a death penalty offense.

Nonetheless, the death penalty continues to be a means of state control. In our society, that function is largely lost. Once the ancient death penalty and its cruel methods became subject to concerns of being more humane, once historical and awful means of execution were set aside,

once it no longer was imposed as a public spectacle, and once any appeal for the death penalty was allowed, dark purposes of the death penalty are no longer served. And so we have reduced the death penalty to a more academic discussion of statistics and argument over deterrence. Yet the moral concerns are as significant as ever.

Let us finally come out of this darkness. Let us renew our pledge of justice. Let us realize that God's justice is a concern far greater than our court system. Let us not answer violence with violence and death with death. Let us have compassion for all victims of violence. And let us set our sights on hope, and faith, and truth.

We urge this Commission to support the abolition of the death penalty in Maryland. Too long have we avoided this issue. We need to make the moral choice, as a society, as a State, to abolish the legal underpinnings of this practice which can come to no good end. Thank you.

6. William Mitchell  
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